

Appl. No. 09/405,787

Amdt. dated February 9, 2004

Reply to Office Action of September 9, 2003

REMARKS

This Amendment is in response to the Office Action mailed 9, 2003». In the Office Action, the Examiner rejected claims 1-42 under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Amendments to the Claims

Applicant has amended independent claims 1, 12, 23, and 32 to add the element of a call server to determine the second media type that will be used to transmit a voice call in accordance with a service plan profile of a calling party associated with the voice call. The element did not previously appear in any claim. A call server as claimed is disclosed by the specification as filed on page 49, lines 3-11. No new matter is added.

Dependent claims 4, 10, 15, 21, 35, and 41 have been amended to maintain an appropriate antecedent relationship with the independent claims as amended.

Claims 1 and 2 have been amended to remove the superfluous ordinal designations of the various means.

Rejections Under 35 U.S.C. § 103

3. The Examiner rejects claims 1-3, 6-8, 12-14, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar et al. (US 6, 172,973).

Referring to claims 1 and 12, applicant has amended claim 1 to add the element of --means for determining said second media type in accordance with a service plan profile of a calling party associated with said voice call--. Applicant has amended claim 12 to add the element of --determining a second media type different than said first media type in accordance with a service plan profile of a calling party associated with said voice call--. Akhtar does not teach or suggest means or method including determining the second media type in accordance with a service plan profile of a calling party.

Referring to claims 2 and 13, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 3 and 14, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 6 and 17, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

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Referring to claims 7 and 18, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 8 and 19, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-3, 6-8, 12-14, and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar.

4. The Examiner rejects claims 4 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Martin (US 6,154,776).

Referring to claims 4 and 15, neither Akhtar nor Martin, alone or in combination, teach or suggest means or method including determining the second media type in accordance with a service plan profile of a calling party.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 4 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Martin.

5. The Examiner rejects claims 5, 9, 11, 16, 20, and 22 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee (US 6,252,847).

Referring to claims 5 and 16, the Examiner asserts that Lee discloses an ATM cell transmission system comprising means for determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources, citing column 1, lines 25-28 and 55-58, and column 2, lines 44-50. Applicant respectfully disagrees. The Examiner asserts that the cited portions disclose that a quality of service level is specified according to the instantaneous bandwidth required for available bit rate (ABR) traffic. Applicant respectfully disagrees. Lee discloses that the quality of service is specified for each service category, where ABR is one of the service categories. Applicant understands the cited portions of Lee to disclose marking resource management (RM) cells associated with ABR traffic with an explicit rate (ER) based on instantaneous bandwidth to indicate how much ABR traffic may be transmitted without increasing congestion unacceptably. Col. 1, lines 49-54. Applicant respectfully submits that this does not disclose "determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources" since the quality of service requirement disclosed by Lee is determined by the service category, ABR. Instantaneous bandwidth is merely used to determine how much bandwidth is available to carry the ABR service.

Referring to claims 9 and 20, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Referring to claims 11 and 22, the Examiner asserts that Lee discloses an ATM cell transmission system comprising means for determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources, citing column 1, lines 25-28

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and 55-58, and column 2, lines 44-50. Applicant respectfully disagrees. The Examiner asserts that the cited portions disclose that a quality of service level is specified according to the instantaneous bandwidth required for available bit rate (ABR) traffic. Applicant respectfully disagrees. Lee discloses that the quality of service is specified for each service category, where ABR is one of the service categories. Applicant understands the cited portions of Lee to disclose marking resource management (RM) cells associated with ABR traffic with an explicit rate (ER) based on instantaneous bandwidth to indicate how much ABR traffic may be transmitted without increasing congestion unacceptably. Col. 1, lines 49-54. Applicant respectfully submits that this does not disclose "determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources" since the quality of service requirement disclosed by Lee is determined by the service category, ABR. Instantaneous bandwidth is merely used to determine how much bandwidth is available to carry the ABR service.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 5, 9, 11, 16, 20, and 22 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee.

6. The Examiner rejects claims 10 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee and further in view of Martin.

Referring to claims 10 and 21, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 10 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee and further in view of Martin.

7. The Examiner rejects claims 23 and 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew et al. (US 5,712,903).

Referring to claim 23, applicant has amended claim 1 to add the element of --a call server coupled to said switch control card to determine said second media type in accordance with a service plan profile of a calling party associated with said voice call--. Bartholomew does not teach or suggest a call server to determine the second media type in accordance with a service plan profile of a calling party.

Referring to claim 25, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claim 26, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claims 27, 28, and 29, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

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Applicant respectfully requests that the Examiner withdraw the rejection of claims 23 and 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew.

8. The Examiner rejects claims 24 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Chu et al. (US 5,956,334).

Referring to claim 24, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claim 30, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 23 and 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Chu.

9. The Examiner rejects claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Chu and further in view of Rathnavelu (US 5,914,934).

Referring to claim 31, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Bartholomew in view of Chu and further in view of Rathnavelu.

10. The Examiner rejects claims 32-34, 37, 38, and 39 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar.

Referring to claim 32, applicant has amended claim 32 to add the element of --determining a second media type different than said first media type in accordance with a service plan profile of a calling party associated with said voice call--. Akhtar does not teach or suggest means or method including determining the second media type in accordance with a service plan profile of a calling party.

Referring to claims 33-34 and 37-39, applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 32-34, 37, 38, and 39 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar.

11. The Examiner rejects claims 40 and 42 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee (US 6,252,847).

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Referring to claims 5 and 16, the Examiner asserts that Lee discloses an ATM cell transmission system comprising means for determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources, citing column 1, lines 25-28 and 55-58, and column 2, lines 44-50. Applicant respectfully disagrees. The Examiner asserts that the cited portions disclose that a quality of service level is specified according to the instantaneous bandwidth required for available bit rate (ABR) traffic. Applicant respectfully disagrees. Lee discloses that the quality of service is specified for each service category, where ABR is one of the service categories. Applicant understands the cited portions of Lee to disclose marking resource management (RM) cells associated with ABR traffic with an explicit rate (ER) based on instantaneous bandwidth to indicate how much ABR traffic may be transmitted without increasing congestion unacceptably. Col. 1, lines 49-54. Applicant respectfully submits that this does not disclose "determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources" since the quality of service requirement disclosed by Lee is determined by the service category, ABR. Instantaneous bandwidth is merely used to determine how much bandwidth is available to carry the ABR service.

Referring to claim 41, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Referring to claim 42, the Examiner asserts that Lee discloses an ATM cell transmission system comprising means for determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources, citing column 1, lines 25-28 and 55-58, and column 2, lines 44-50. Applicant respectfully disagrees. The Examiner asserts that the cited portions disclose that a quality of service level is specified according to the instantaneous bandwidth required for available bit rate (ABR) traffic. Applicant respectfully disagrees. Lee discloses that the quality of service is specified for each service category, where ABR is one of the service categories. Applicant understands the cited portions of Lee to disclose marking resource management (RM) cells associated with ABR traffic with an explicit rate (ER) based on instantaneous bandwidth to indicate how much ABR traffic may be transmitted without increasing congestion unacceptably. Col. 1, lines 49-54. Applicant respectfully submits that this does not disclose "determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources" since the quality of service requirement disclosed by Lee is determined by the service category, ABR. Instantaneous bandwidth is merely used to determine how much bandwidth is available to carry the ABR service.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 40 and 42 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee.

12. The Examiner rejects claim 36 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee (US 6,252,847).

Referring to claim 36, the Examiner asserts that Lee discloses an ATM cell transmission system comprising means for determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources, citing column 1, lines 25-28 and 55-58, and column 2, lines 44-50. Applicant respectfully disagrees. The Examiner asserts that the cited

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portions disclose that a quality of service level is specified according to the instantaneous bandwidth required for available bit rate (ABR) traffic. Applicant respectfully disagrees. Lee discloses that the quality of service is specified for each service category, where ABR is one of the service categories. Applicant understands the cited portions of Lee to disclose marking resource management (RM) cells associated with ABR traffic with an explicit rate (ER) based on instantaneous bandwidth to indicate how much ABR traffic may be transmitted without increasing congestion unacceptably. Col. 1, lines 49-54. Applicant respectfully submits that this does not disclose "determining said quality of service requirement in accordance with instantaneous availability of bandwidth resources" since the quality of service requirement disclosed by Lee is determined by the service category, ABR. Instantaneous bandwidth is merely used to determine how much bandwidth is available to carry the ABR service.

Applicant respectfully requests that the Examiner withdraw the rejection of claim 36 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee.

13. The Examiner rejects claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Martin.

Referring to claim 35, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Martin.

14. The Examiner rejects claim 41 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee and further in view of Martin.

Referring to claim 41, applicant relies on the patentability of the claims from which this claim depends to traverse the rejection without prejudice to any further basis for patentability of this claim based on the additional limitations recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claim 41 under 35 U.S.C. § 103(a) as being unpatentable over Akhtar in view of Lee and further in view of Martin.

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Conclusion

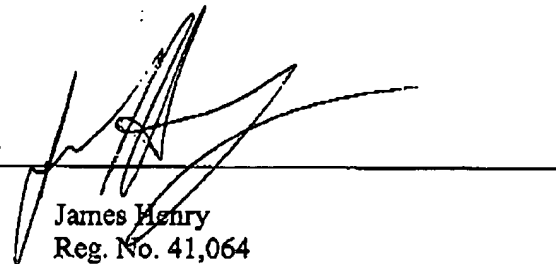
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: February 9, 2004

By

A handwritten signature in black ink, appearing to be "James Henry", is written over a horizontal line. The signature is stylized and cursive.

James Henry

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